

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TONGLU RISING SUN SHOES CO.,
LTD,

Civil Action No. 14-1634 (SRC)

Plaintiff,

v.

OPINION & ORDER

NATURAL NINE (USA) CO., LTD.; YI
XIAN JIANG a.k.a. JOHN, and ZHAO
HUI HUANG,

Defendants.

CHESLER, District Judge

This matter comes before the Court on the motion filed by Defendants Zhao Hui Huang, Yi Xian Jiang, Natural Nine (USA) Co. (“Defendants”) to dismiss the Complaint of Plaintiff Tonglu Rising Sun Shoes Co. (“Plaintiff”). For the reasons that follow, the Court will deny Defendants’ motion.

Because Plaintiff is a foreign corporation, it must file a business activities report with the State of New Jersey if it wishes to maintain a legal action in any State or Federal Court in New Jersey. N.J.S.A. 14A:13-20. Defendants moved to dismiss because at the time Plaintiff filed its Complaint in March of 2014, Plaintiff had not complied with this reporting requirement. Plaintiff counters that it does not fall within the purview of that legislation, but alternatively notes that it registered with New Jersey on September 19, 2014 [docket entry 19-2].

As Plaintiff outlines in its opposition brief, a party may retroactively comply with the reporting requirement, and dismissal is not warranted once that occurs. See QBI Int’l v. Princeton Gamma Tech, 1988 WL 78161, at *3 (D.N.J. June 27, 1988) (denying motion to dismiss even though foreign corporation did not comply with reporting requirement until after

jury rendered verdict); Starting Nine v. Highgate Products, 1993 WL 235836, at *6 (D.N.J. June 21, 1993) (“[P]laintiff will be permitted to comply with the appropriate statutory provisions during the trial to avoid dismissal of the action.”); see also First Family Mortgage Corp. of Florida v. Durham, 108 N.J. 277, 292 (1987) (holding that the failure to comply with N.J.S.A. 14A:13-20 does not create a permanent bar to New Jersey courts). Defendants have filed no arguments or authority to counter this proposition. Accordingly, Defendants’ motion to dismiss [docket entry 16] will be and hereby is **DENIED**.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge

Dated: October 21, 2014